

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 301

April 23, 1965

DEDUCTIONS: EXPENSES ATTRIBUTABLE TO GROWING CROPS

Syllabus:

Taxpayer and his wife owned a ranch which was acquired as community property after 1927. The wife died on October 2, 1958, and her half of the ranch, including the growing crops, passed to the husband by intestate succession. At the time of the wife's death most of the expenses relating to the 1958 crops had been incurred, but the majority of the crop was not sold until later in the year.

The surviving husband filed a joint return for 1958 reporting the income of both spouses for the period ending October 2, 1958 and his own income for the remainder of the year. In this return the wife's share of the expenses attributable to the growing crops was deducted. The wife's estate filed a return for the portion of 1958 following her death and in determining income used a basis equal to the fair market value of the wife's one half of the growing crops on the date of death.

The problem presented is whether or not expenses, attributable to growing crops, which were included in the decedent's estate at fair market value at the date of death should be disallowed in computing the community income for the period terminating with the wife's death?

Pursuant to Section 18044 and 18045(a) property acquired from a decedent by the surviving spouse or by a decedent's estate is entitled to a basis equal to the fair market value at date of death. Under these provisions therefore it is clear that the estate gets a stepped up basis for the wife's share of the growing crops. The same rule would be applicable had there been no estate and the property was received directly by the husband. Section 18402(b) also provides, quite clearly, that the surviving spouse may file a joint return with the decedent for the period preceding death. There is no provision in the Law, the regulations, the committee reports with respect to the adoption of the comparable Federal section, or judicial precedent for limiting the deductions claimed in such a return. Although the effect of allowing the deductions and an increased basis for the assets has the effect of allowing a double deduction, it must be remembered that an inheritance tax was also paid to the State of California. This is generally regarded as the theory behind allowing a basis of fair market value for properties received from a decedent. Since, in our opinion, the statutes in question are clear and unambiguous in this area, it is our recommendation that the expenses be allowed.